



January 29, 2003

HOUSE BILL No. 1269

DIGEST OF HB 1269 (Updated January 21, 2003 5:26 PM - DI 77)

Citations Affected: IC 25-22.5; IC 25-23; IC 25-27.5; IC 25-34.5.

Synopsis: Practice of medicine exclusion. Provides that health care practitioners who practice their respective professions as authorized by their regulating statute do not engage in the unlawful practice of medicine. Makes conforming amendments. Makes a technical correction.

Effective: July 1, 2003.

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January 13, 2003, read first time and referred to Committee on Public Health.
January 28, 2003, reported — Do Pass.

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HB 1269—LS 7562/DI 77+



January 29, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1269

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-22.5-1-2, AS AMENDED BY P.L.255-2001,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2. (a) This article, as it relates to the unlawful or
4 unauthorized practice of medicine or osteopathic medicine, does not
5 apply to any of the following:
6 (1) A student in training in a medical school approved by the
7 board, or while performing duties as an intern or a resident in a
8 hospital under the supervision of the hospital's staff or in a
9 program approved by the medical school.
10 (2) A person who renders service in case of emergency where no
11 fee or other consideration is contemplated, charged, or received.
12 (3) A paramedic (as defined in IC 16-18-2-266), an advanced
13 emergency medical technician (as defined in IC 16-18-2-6), an
14 emergency medical technician (as defined in IC 16-18-2-112), or
15 a person with equivalent certification from another state who
16 renders advanced life support (as defined in IC 16-18-2-7) or
17 basic life support (as defined in IC 16-18-2-33.5):

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(A) during a disaster emergency declared by the governor under IC 10-4-1-7 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

~~(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to~~ An employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

~~(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.~~

~~(11) A dentist practicing the dentist's profession under IC 25-14.~~

~~(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.~~

~~(13) A nurse practicing the nurse's profession under IC 25-23.~~

However, **(10)** A registered nurse may administer who administers anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

~~(14) An optometrist practicing the optometrist's profession under~~

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~~IC 25-24.~~

~~(15) A pharmacist practicing the pharmacist's profession under IC 25-26.~~

~~(16) A physical therapist practicing the physical therapist's profession under IC 25-27.~~

~~(17) A podiatrist practicing the podiatrist's profession under IC 25-29.~~

~~(18) A psychologist practicing the psychologist's profession under IC 25-33.~~

~~(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.~~

~~(20)~~ **(11)** An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9), ~~through (18), (10), or (17)~~, nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

~~(21)~~ **(12)** A hospital licensed under IC 16-21 or IC 12-25.

~~(22)~~ **(13)** A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;

(B) a psychiatric hospital;

(C) a hospital;

(D) a health maintenance organization or limited service health maintenance organization;

(E) a health facility;

(F) a dentist;



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(G) a registered or licensed practical nurse;

(H) a midwife;

(I) an optometrist;

(J) a podiatrist;

(K) a chiropractor;

(L) a physical therapist; or

(M) a psychologist.

~~(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.~~

~~(24)~~ **(14)** A physician providing medical treatment under IC 25-22.5-1-2.1.

~~(25)~~ **(15)** An attendant who provides care services as defined in IC 16-27-1-0.5.

~~(26)~~ **(16)** A personal services attendant providing authorized attendant care services under IC 12-10-17.

(17) A practitioner (as defined in IC 25-1-9-2) who practices under the scope of the individual's license (as defined in IC 25-1-9-3).

(b) A person described in ~~subsection~~ **subsection (a)(9), through (a)(18) (a)(10), or (a)(17)** is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection ~~(a)(21)~~ **(a)(12)** through ~~(a)(22)~~ **(a)(13)** and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.



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1 (e) A person described in subsection (a)(8) shall not be authorized
2 to dispense contraceptives or birth control devices.

3 SECTION 2. IC 25-23-1-30 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. Nothing in this
5 chapter shall be construed as requiring a certified registered nurse
6 anesthetist to obtain prescriptive authority to administer anesthesia
7 under ~~IC 25-22.5-1-2(12)~~. **IC 25-22.5-1-2(a)(10).**

8 SECTION 3. IC 25-27.5-5-1 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter does not
10 apply to the practice of other health care professionals set forth under
11 IC 25-22.5-1-2(a)(1) through ~~IC 25-22.5-1-2(a)(19)~~.
12 **IC 25-22.5-1-2(a)(10) and IC 25-22.5-1-2(a)(17).**

13 SECTION 4. IC 25-34.5-3-7, AS ADDED BY P.L.60-2000,
14 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 7. This article does not affect the applicability of
16 ~~IC 25-22.5-1-2(a)(19)~~. **IC 25-22.5-1-2(a)(11).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1269, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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